

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

STATE OF TEXAS,)
GUN OWNERS OF AMERICA, INC.,)
GUN OWNERS FOUNDATION, and)
BRADY BROWN,)

Plaintiffs,)

v.)

BUREAU OF ALCOHOL, TOBACCO,)
FIREARMS AND EXPLOSIVES, UNITED)
STATES DEPARTMENT OF JUSTICE, and)
STEVEN M. DETTELBAACH in his official)
capacity AS THE DIRECTOR OF ATF,)

Defendants.)

Case No. 6:23-cv-00013

**PLAINTIFFS' MOTION FOR A RULING ON
PRELIMINARY INJUNCTION BEFORE APRIL 1**

Plaintiffs request a ruling on their Motion for Preliminary Injunction before Saturday, April 1—the date until which Defendants “will wait to actually initiate . . . enforcement actions. . . .” 87 Fed. Reg. at 6481. The Final Rule gives amnesty to possessors of handguns with stabilizing braces if they register them as short-barreled rifles by May 31, so ATF will not prosecute mere possession before that date. But it does not explicitly give amnesty to, for instance, the acts of carrying a short-barreled rifle across state lines without ATF's permission (a crime under 18 U.S.C. § 922(a)(4)) or selling short-barreled rifles without ATF's permission (a crime under 18 U.S.C. § 922(b)(4)). Such crimes could be prosecuted starting on April 1. Moreover, the Final Rule’s preamble provides, “Notwithstanding the 120-day compliance period [until May 31, 2023], the rule

is immediately effective in that the Department may seek to enforce the NFA's requirements with respect to any new making or new transfer of a weapon with an attached 'stabilizing brace' that constitutes a short-barreled rifle under the NFA." 88 Fed. Reg. at 6481. Thus, persons could be prosecuted starting on April 1.

Should the Court wish to hear the motion, Plaintiffs request that the hearing be on Thursday, March 30, or, in the alternative, March 29 or March 31. Defendants have informed Plaintiffs that they intend to respond to the motion by Monday, March 27. They are "generally not opposed" to the Plaintiffs' request, but they "defer to the Court on any expedited consideration of the PI motion or the necessity of a hearing[.]"

Dated March 17, 2023.

/s/ Stephen D. Stamboulieh
STEPHEN D. STAMBOULIEH
Mississippi Bar No. 102784
Southern District of Texas No. 3554925
Stamboulieh Law, PLLC
P.O. Box 428
Olive Branch, MS 38654
(601) 852-3440
stephen@sdsllaw.us

ANTHONY R. NAPOLITANO
Arizona Bar No. 034586
Southern District of Texas No. 3837680
Bergin, Frakes, Smalley & Oberholtzer,
PLLC
4343 E. Camelback Road, Suite 210
Phoenix, Arizona 85018
(602) 848-5449
anapolitano@bfsolaw.com

GILBERT J. AMBLER
Virginia Bar No. 94325
Southern District of Texas No. 3834055
20 S. Braddock St
Winchester, VA 22601
(540) 550-4236
gilbert@amblerlawoffices.com

*Counsel for Plaintiffs Brady Brown, Gun
Owners of America, Inc., and Gun Owners
Foundation*

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

AARON F. REITZ
Deputy Attorney General for Legal
Strategy
Texas Bar No. 24105704
Southern District of Texas No. 3653771

LEIF A. OLSON
Chief, Special Litigation Division
Texas Bar No. 24032801
Southern District of Texas No. 33695

/s/ Charles K. Eldred
CHARLES K. ELDRED
Special Counsel for Legal Strategy
Texas Bar No. 00793681
Southern District of Texas No. 20772

CHRISTINA CELLA
Assistant Attorney General
Texas Bar No. 24106199
Southern District of Texas No. 3355870

OFFICE OF THE ATTORNEY
GENERAL OF TEXAS
P.O. Box 12548
Austin, Texas 78711-2548
(512) 936-1700
Aaron.Reitz@oag.texas.gov
Leif.Olson@oag.texas.gov
Charles.Eldred@oag.texas.gov
Christina.Cella@oag.texas.gov

Counsel for Plaintiff State of Texas

CERTIFICATE OF SERVICE

I certify that on March 17, 2023, I filed this motion through the Court's CM/ECF system, which automatically served it upon all counsel of record, and emailed a copy to Faith E. Lowry, attorney for Defendants.

/s/ Charles K. Eldred

CERTIFICATE OF CONFERENCE

I certify that on March 15, 2023, I conferred with Defendants' counsel Faith E. Lowry, who stated, "We defer to the Court on any expedited consideration of the PI motion or the necessity of a hearing, but generally are not opposed."

/s/ Charles K. Eldred